IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 35186 of 2007(L)

OS.29/2003 of PRINCIPAL SUB COURT,CHERTHALA
SA.72/2007 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONERS:

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1. V.N. BABY, S/O. NARAYANAN,
   UDAYANILAYAM, KURUPPANKULANGARA P.O.,CHERTHALA.

2. M.D. SHYLA, W/O. V.N. BABY,
   UDAYANILAYAM, KURUPPANKULANGARA, CHERTHALA.

BY ADV. SRI.JOBY CYRIAC

RESPONDENT:

STATE BANK OF INDIA,
ARTHUNKAL BRANCH, ALAPPUZHA DISTRICT,
REPRESENTED BY ITS BRANCH MANAGER.

BY ADV.SRI.P.V.SURENDRANATH -SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

W.P.(C)NO.35186 of 2007 - L

Dated this the 28th day of November, 2007.

JUDGMENT

This writ petition is filed for a direction to the court below to dispose of E.A.No.313/2007 before selling the attached property in public auction and to direct the court below to keep further execution proceedings in pursuance of the decree in O.S.No.29/2003. With respect to the very same amount due, proceedings were initiated under the Securitisation Act and the Debt Recovery Tribunal, Ernakulam by order dated 10th October, 2007 passed an order directing the defendants therein to keep further proceedings for sale of the secured asset pursuant to Annexure-A4 possession notice dated 21.8.2007 in abeyance till the expiry of the time granted to the applicants to discharge the liability. It also observed that it is made clear that in the event of the applicants' failure to pay Rs.2,50,000/= on or before 31.12.2007 or the balance on or before 28.2.2008 as stated , the defendants shall be at liberty to proceed with sale of the secured asset from the stage at which the proceedings reached as on today in accordance with law. So, the Debt Recovery Tribunal has

exercised its discretionary jurisdiction and granted some time for the defendants in the suit to pay the amount. When it is so, it is not fair for the civil court to proceed ignoring the order passed by the Debt Recovery Tribunal and therefore, I direct the court below not to proceed with the execution proceedings further and wait for the time whether the defendants in the suit are complying with the directions given by the Debt Recovery Tribunal. If the writ petitioners herein commit default of the order passed by the Debt Recovery Tribunal, then, certainly, the civil court can further pursue the matter and proceed with the execution in accordance with law.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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